

REMARKS

Claims 18-20, 23-24, and 26-37 are pending in the application.

Declaration Under Rule 132

Attached is an unsigned copy of Rule 132 Declaration, which is currently being circulated for signatures. The original signed document will be forwarded via US mail as it becomes available.

The Declaration is being provided to antedate the publication date of Lin et al. (US 2003/0185965 A1) which was published on October 2, 2003.

The Examiner applies the Lin et al. '965 reference as prior art under section 102(a). However, upon showing that the present claims were invented prior to the publication date of the Lin et al. '965 reference, this reference no longer qualifies under 102(a) but only under 102(e).

Under 103(c)(1): Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102, shall not preclude patentability under section 103 where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Lin et al. '965, and the subject matter and claimed invention of the present application were, at the time the claimed invention was made, both commonly owned by or subject to an obligation of assignment to Applied Materials, Inc.

Accordingly, Lin et al. '965 does not qualify as prior art under section 103.

Rejections under 37 CFR 103(a)

I. Claims 18-20, 23-24, and 26-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lin, et al. (US 2003/0185965) in view of Lin (US 2003/0026917), further in view of Garg (US 5,009,966).

The rejection of claims 18-20, 23-24 and 26-37 under 35 USC 103(a) is improper because Lin et al. '965 does not qualify as a 103 reference according to 103(c), as outlined above.

Accordingly, the 103(a) rejection based on Lin et al. '965 should be withdrawn.

CONCLUSION

The above remarks are declaration are believed to place the application in condition for allowance. Should the Examiner has any questions regarding the present submission, the Examiner is requested to call the undersigned representative at: (415) 538-1555.

Respectfully submitted,

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